

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

MYNECA OJO, et al.,	:	Civil No. 1:20-cv-0661
	:	
Plaintiffs,	:	
	:	
v.	:	
	:	
BREW VINO, LLC, et al.,	:	
	:	
Defendants.	:	Judge Sylvia H. Rambo

ORDER

AND NOW, this 5th day of October, 2023, upon consideration of Defendants' Motion for Summary Judgment (Doc. 81) under Federal Rule of Procedure 56, and Magistrate Judge Carlson's thorough and well-reasoned Report and Recommendation (Doc. 87) recommending that, with the narrow exceptions below, the motion be denied, and noting that no objections have been filed, and the court having satisfied itself that there is no clear error on the face of the record, Fed. R. Civ. P. 72(b), advisory committee notes; *see also Univac Dental Co. v. Dentsply Intern., Inc.*, 702 F. Supp. 2d 465, 469 (M.D. Pa. 2010) (explaining that judges should review dispositive legal issues raised by the report for clear error), IT IS HEREBY ORDERED as follows:

- 1) The Report and Recommendation (Doc. 87) is ADOPTED.
- 2) The Motion for Summary Judgment (Doc. 81) is GRANTED, in part, and DENIED, in part, as follows and in accordance with the Report and Recommendation:

- a. The motion is GRANTED with respect to Plaintiffs' constructive fraud contract claim;
 - b. The motion is GRANTED, in part, and DENIED, in part with respect to Plaintiffs' defamation claim in that this claim is dismissed with respect to Defendants Bower and Polacheck but the motion is DENIED with respect to Defendant Chronister;
 - c. The motion is GRANTED, in part, and DENIED, in part, with respect to Plaintiffs' breach of contract claim in that the individual defendants are dismissed from this claim but that the claim shall proceed as to Defendant Brew Vino LLC; and
 - d. The motion is DENIED in all other respects.
- 3) Within 21 days of this order, Defendants may file a brief in support of their argument regarding § 1981 and §2000a individual liability. (*See* Doc. 87 n. 4.) Plaintiffs shall respond within 21 days.
- 4) This matter is remanded to Magistrate Judge Daryl Bloom for further pre-trial proceedings.

s/Sylvia H. Rambo
SYLVIA H. RAMBO
United States District Judge